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GENERAL HEADINGS.

Cases Reported this Week.

Current Topics.

The Late Mr. Thomas Rawle.

WE very much regret to see, as we go to press, the announcement of the death of Mr. THOMAS RAWLE, a past president of the Law Society, in the activities of which he for many years took a leading part. His kindliness and generosity in private life were as noteworthy as his great business ability.

The Late Judge Gye.

WE SEE with regret the announcement of the death of Judge GYE, of the Hampshire County Court Circuit. He was appointed to that circuit in 1896, and the appointment was regarded at the time as a useful one. We believe that his work on the bench during the twenty years has been such as to justify the opinion then formed of his capacity. The late judge was a good lawyer, and courteous to practice before, and his loss will be felt in the important community he served.

Lt.-Col. Edward N. Whitley.

WE NOTICED last week the Legal Birthday Honours which were included in the ordinary civil list. The military list did not readily furnish us with the means of identifying any member of the legal profession, but we are interested to hear that it includes the name of Lt.-Col. EDWARD N. WHITLEY, who is a member of the firm of Messrs. HIRST, WHITLEY & AKEROYD, solicitors, of Halifax. Mr. WHITLEY'S connection with the Forces dates back to Volunteer days in 1896, and we are glad to be able to give elsewhere some particulars of his career. His long experience and his abilities have made his services of special value in the present crisis, and the recognition of them by the award of a C.M.G. will give pleasure beyond his own circle and district.

Infant Soldiers and Wills of Real Estate.

WE PRINTED last week (*ante*, p. 546) an account of an interesting discussion, opened by Mr. H. R. BLAKER, at the annual general meeting of the Berks, &c., Incorporated Law Society, as to the present legal position with regard to the wills of soldiers and sailors. Speaking generally, a man on service, if of the age of fourteen years or upwards, can dispose of personal estate by a will, nuncupative or in writing unsigned and unattested (see Wills Act, 1837, s. 11); but there is no similar relaxation with regard to real estate, and as to this an infant on service has no disposing capacity. The

Society unanimously resolved that section 11 should be amended so as to make it apply to real as well as personal estate. The matter has been under the consideration of the Parliamentary Committee of the Council of the Law Society—apparently with regard to the particular case of hardship cited before the Berks Law Society—and the Report of the Committee is given in the June number of the *Law Society's Gazette*. The Committee, by a small majority, decided that no legislation as regards the matter should be recommended in respect of anyone making a will under the age of twenty-one. A recommendation was, however, considered and passed that the provisions of section 11 of the Wills Act should apply to real as well as personal estate in respect of anyone over the age of twenty-one years as regards the formalities of wills. And the Committee reported accordingly in the following terms:—

> (1) That no legislation should be recommended extending section 11 of the Wills Act, 1837, so as to enable soldiers and sailors who are minors to dispose of their real estate.
>
> (2) But that the Act should be extended to enable soldiers and sailors who are over twenty-one years of age to dispose of their real estate by written or nuncupative wills in the same way as they might dispose of their personal estate.

We venture to suggest that there is no substantial reason for distinguishing as regards minors between real and personal estate. Moreover, if the State thinks a boy of eighteen old enough to undertake military service, it is singular that he should not, under the special conditions of such service, be treated as capable of disposing of all his property.

Mandamus on Last Day of Term.

FIVE YEARS ago, in a temporary obscuration of the judicial wisdom, a Divisional Court solemnly refused to hear an *ex parte* application for a rule *nisi* for a writ of *mandamus* on the extraordinary ground that the applicant was making his motion on the last day of term (*Ex parte McBean*, 27 T. L. R. 401). The Court was, in fact, under the impression that there existed some Crown Office Rule to that effect, an idea which is wholly erroneous. But their decision has put difficulties in the way of counsel ever since, and serious attempts have even been made to find a reasonable origin for this imaginary rule or custom, none of which explanations is in the least plausible. At last another Divisional Court, greatly daring, has ventured to set aside *Ex parte McBean*, and to hear such an application on its merits on the last day of the Easter term (*Ex parte Ferber*, *Times*, 10th inst.). Counsel who made the application very properly felt it his duty to call attention to the existence of the supposed rule, but added that no written rule of the kind existed, and that the Crown officials denied the existence of any such customary rule of practice. A court consisting of LUSH and AVORY, JJ., decided to hear him, so that *Ex parte McBean* must now be regarded as wrongly decided and no longer an authority.

The Middlesex Deeds Registry and the New Index.

THE NEW system of indexing adopted at the Middlesex Deeds Registry in 1909 has, we believe, proved to be not only successful in itself, but a boon to those members of the profession who are acquainted with its possibilities. It was inaugurated chiefly to overcome the difficulty experienced by the practitioner who, desiring to make a search in a name of the Smith type, found himself confronted with the necessity of perusing a large number of memorials of irrelevant deeds; now he can obtain an official search and receive an official certificate which sets out only memorials affecting the particular plot of land he is concerned with, and this (when the value is under £3,000) at a cost of only one shilling more per name than he had to pay when he did all the work himself. But there is a further development to which it may be convenient to direct attention, namely, the reconstruction of titles which have been lost. Formerly, titles could only be traced downward from grantor to grantee, not upward from grantee to grantor. A lost title, therefore, could not be reconstructed from the registry. We understand that the Search Department is now able in many instances, by means of the new system of indexing, to deal with cases of this sort, and, as time goes on and the indexing becomes more complete, it will be possible to do so in an increasing number of cases. It is to be remembered that the Middlesex Deeds Registry has been in existence for over 200 years; consequently there must be stored within it records relating to all the land in the county, the county comprising for this purpose not only the present county of Middlesex, but also that part of London which is situate north of the Thames, excluding the City and a few specially excepted places.

Foreign "Factories" and International Law.

A NOTICE which we reproduce elsewhere (p. 560) from the *Times* of 8th inst. of the sale of an interesting relic, dated 1718, of the English factory at Riga, calls attention to the special position which "factories" had in the early days of world commerce. The leading authority as to the ex-territoriality of an English factory in the East is *The Indian Chief* (3 Ch. Rob. 22). It is a settled principle of Prize Law that the domicil of a merchant in time of war depends on the place where he resides and carries on his business. This "commercial domicil," which governs his status in regard to trading with the enemy, is quite a different thing from the ordinary domicil which governs his status generally, and which depends upon the *animus manendi*. A merchant may have no intention of permanent residence, but his "commercial domicil" is none the less fixed where at the time he happens to have a settled business establishment; indeed, in the days of coffee houses it was held that his carrying on business there was enough, though he had no separate counting-house. If, however, he was a member of an association or "factory" in the East, he took temporarily the national character of the European nation to which the factory belonged. Under the Dutch at Smyrna or on the coast of Malabar, or in the French factory in China, or with the English at Calcutta, a merchant became respectively Dutch, French, or English. It was sometimes argued that a like rule of ex-territoriality applied to factories in European countries, and in *The Nayade* (1802, 4 Ch. Rob. 251) a Prussian merchant settled in a Prussian factory at Lisbon claimed that he retained his Prussian character so as to be at liberty to trade with France, which was then an enemy of Portugal. Lord STOWELL rejected the claim, since he declined, unless so compelled by a superior Court, to admit that foreigners settled in a State could, on any theory of law, trade with the enemies of that State. And similarly in *The Danous* (1802, 4 Ch. Rob. 255, note) the House of Lords held that a British merchant resident in the English factory at Lisbon acquired a Portuguese character, though that decision was in favour of the merchant, since it allowed him to trade with Holland, then at war with England but not with Portugal. What rule would have applied to the English factory at Riga we cannot say, but probably at that time English merchants there would be glad to retain their English character.

The Military Duty of Soldiers.

TO LAWYERS the tragic cases of Mr. SHEEHY SKEFFINGTON and Lieutenant LUCAS, both shot without a trial by soldiers obeying the command of a superior who had lost his head, raise an interesting question. It is part of the Constitutional Law of England (Dicey, Lecture VII.) that obedience to superior orders does not excuse the commission of murder or any other crime on the part of a soldier (*Rex* v. *Thomas*, 1816, reported in 1 Russell's Crimes and Misdemeanours, 4th ed., p. 823). The case quoted, just a century old, is a most instructive one. A sentinel on board a warship was instructed to keep off all boats, with certain exceptions, from the side of his vessel as it lay in harbour, and to carry out his orders was given a musket with three ball cartridges. He shot at a boat, which disobeyed his persistent warnings to keep off, and killed a man on board. The jury found, apparently as a special verdict, that the sentinel killed the deceased, but did so under the mistaken impression that it was his duty so to do, whereupon the judges unanimously, on a case reserved, held that his act was murder. Had the deceased been stirring up a mutiny, however, and had the shot been necessary to preserve the ship, his act would have been justifiable homicide

and so excused. And in any case, since he was obeying orders, they advised the Crown to exercise in his favour the prerogative of mercy. This case is rightly regarded by Prof. DICEY as shewing that an act of murder committed by soldiers cannot be excused by shewing that the soldiers were by military law bound to do it on peril of punishment for disobedience. By section 9 (2) of the Army Act, 1881, it is an offence for a person subject to military law to disobey any *lawful* command given by his superior officer; no offence is committed if the command was in fact unlawful; but from language used by the Court in *Bailey* v. *Warden* (4 M. & S. 400), it seems unlikely that mere illegality of the officer's command, if the command was of a military nature on active service, would render it unlawful for this purpose. Discipline, it may be said, would be impossible if soldiers are to question the legality towards outsiders, as distinct from the military jurisdiction to issue orders to themselves, of orders given by officers, though there should obviously be some limit even to the exigencies of military discipline. In both the present cases the orders given —namely, to shoot prisoners without trial—were absolutely illegal in all circumstances except one (namely, where the prisoner is attempting to escape); and there ought to be some means of securing that soldiers will not be expected to obey such orders on the part of an insane or excited superior. SKEFFINGTON'S case is aggravated by the fact that a subaltern and a warrant officer, who heard the illegal order issued by a superior whose insanity ought to have been apparent, seem to have neither remonstrated nor interfered in any way.

A Scoutmaster's Liability.

THE DECISION of a strong Court of Appeal (Lord READING, with WARRINGTON and SCRUTTON, L.JJ.), in *Barker* v. *Wright* (*Times*, 2nd inst.), is interesting for at least three different reasons. A scoutmaster had been held liable, by a judgment of SHEARMAN, J., following on a finding of fact by a common jury, for a bullet wound suffered by the plaintiff while walking on a footpath near a field in which his troop of scouts were engaged in rifle practice. At the time of the accident shooting was taking place near the footpath on the part of other persons besides the boy scouts, so that a first step towards rendering the scoutmaster liable was to trace the offending bullet to a rifle fired by one of his boys. The only evidence of this was that the boys were firing in such a direction that a very bad high shot carelessly fired might possibly have struck the plaintiff; against this was the evidence of the scoutmaster, and the cartridge dealer who supplied him, that the bullet found in the wound was not of the type he used, and could not have been packed along with the smaller cartridges. There seems at the most only a *scintilla* of evidence to justify the finding of the jury, which was against the scoutmaster. But where two possible views are not equally consistent, then the merest *scintilla* of evidence in favour of the view actually taken by the jury is sufficient to justify their finding of fact (*Colton* v. *Wood*, 8 C. B. N. S., 568). Assuming, however, that the bullet came from the rifle of a boy scout under the defendant's command, there still arises a second question: Was the defendant responsible for the use of that bullet by the boy? Now the jury had not found that the cartridge was supplied by the scoutmaster; the boy might have used an unauthorised cartridge instead; indeed. the evidence pointed that way. This question the Court solved by a favourite method of dialectical minds. They constructed a dilemma which caught the defendant in either event. Either the guilty boy used a cartridge supplied by his scoutmaster, or else he used an unauthorized one. In the former case, the defendant was liable because he put in the boy's hand the instrument of his tort, namely, the cartridge; in the latter case, he was guilty of negligence in allowing the boy to use an unauthorised cartridge. The last step necessary before the defendant is fixed with legal liability is to shew that his negligence in fact was negligence *in law*, *i.e.*, that he owed to passers-by on the footpath near the field some duty to prevent his boys shooting them by accident. Here it is not so easy to find the legal nature of the breach of duty. *Respondeat superior* has no application, in the absence of agency or a contract of service, to the liability for a child's torts on the part of a person *in loco parentis*. But any person in control of boys, so the Court held, must take proper care to see that they do not use dangerous weapons, by design or accident, so as to injure members of the public. So the chain of reasoning was complete and the scoutmaster was held liable.

Potatoes and Government Control.

AMONG THE various war matter which we print elsewhere it will be noticed that, under the head of prohibited exports, potatoes have been transferred from Class (C) to Class (A)—that is, their exportation, instead of being subject to partial prohibition only, is subject to total prohibition. Any of our readers who are of a sufficiently practical turn of mind to know what goes on at home will not be surprised at this attempt to conserve the available stock till more comes in. We are credibly informed that, as between meatless and potatoless days, the latter are likely to win easily. We recently called attention to the Articles of Commerce (Returns, &c.) Act, 1914, which replaced the earlier Unreasonable Withholding of Foodstuffs Act, 1914, and was intended to enable the Government to regulate the supply of articles of necessity. We do not know how far use has been made of it, and, in any case, the regulating of the food supply of a nation is a matter not unlikely to cause as much trouble as it removes. Fortunately, in the case of some articles, such as that referred to above, the consumer has his own remedy. He may not be able to follow the advice of the genial gardening correspondent of the *Times* (Saturdays, *passim*) and graze sheep upon the lawn; but he can watch the growth, promising enough now, of the potatoes he planted in February—or was it March?

> "For him light labour spreads her wholesome store,
> Just gives what life requires and gives no more."

The Patent Office and the War.

THE effect of the war on the business of the Patent Office is shewn by the recently issued Report of the Comptroller-General for the year 1915. The number of applications for patents during that year was 18,191, being 6,629 less than in 1914, when the applications were about 3,000 less than in 1913. In fact, the number of applications in 1915 was the lowest on record since 1887. The applications to register designs shewed a proportionately greater decrease, being 18,130 in 1915 against 34,354 in 1914. The applications to register trade-marks were 6,057 in 1915 against 8,317 in 1914. Of course, the decrease in the number of applications produced a corresponding decrease in the fees payable to the Patent Office in this respect. There was also a falling-off of receipts in respect of other fees, with the result that the total receipts from fees in 1915 were £36,191 less than the receipts in 1914; but in spite of this the surplus of receipts over expenditure in 1915 amounted to the substantial sum of £94,298 9s. 10d. in favour of the Office.

It is noticeable that although the income of the Office has decreased, the work of the Office has increased on account of the Order in Council of 14th October (*ante*, p. 28), amending the Defence of the Realm Regulations, which provided that where an application has been made for the grant of a patent or the registration of a design in the United Kingdom, and the Comptroller is satisfied that the publication of the invention or the design might be detrimental to the public safety or the defence of the Realm, or might otherwise assist the enemy or endanger the successful prosecution of the war, he may delay the acceptance of the complete specification, or, as the case may be, the registration of the design; and in such case may by order prohibit:—(a) the publication or communication in any way of the invention or design; (b) applications being made for the protection of the invention or design in any enemy or neutral country; and (c) application being made for such pro-

tection in any allied country or in any of His Majesty's Dominions, without the permission of the Admiralty and Army Council. By the same Order it was further provided that no person shall apply for the grant of a patent or the registration of a design in any foreign country, or in any of His Majesty's Dominions, unless he leaves at or sends by post to the Patent Office a notice of his intention, together with a provisional specification describing the nature of the invention or a representation of specimen of the design; nor until after one month from giving the notice; and if, during the month, the Comptroller is satisfied that the publication of the invention or design might be detrimental to the public safety, &c. (as above), he may make a like order as in respect of cases in which application is made for the grant of a patent or the registration of a design in the United Kingdom. Under this Order the duty is imposed on the Comptroller of considering and dealing with every application for a patent or registration of a design relating to munitions of war in the United Kingdom, and also every application for a patent or registration of a design abroad whatever the subject-matter may be.

By an Act passed on 23rd November, 1915—the Patents and Designs Act (Partial Suspension) Act, 1915—the operation of section 27 of the Patents and Designs Act, 1907, was suspended during the continuance of the war and for six months thereafter. This is the section which enables the Comptroller, on an application made to him by any person, to revoke a patent on the ground of the invention covered by the patent being worked exclusively or mainly outside the United Kingdom. The necessity for this suspension could not have been very pressing, seeing that in 1915 only three applications were made under the section, of which one was dismissed, and the other two (which related to the same patent) were successful.

Where a patent has become void owing to non-payment of a renewal fee the patentee can (on payment of £20) make an application to the Comptroller for its restoration; but he must satisfy the Comptroller that the omission to pay the renewal fee was unintentional, and that no undue delay has occurred in making the application, and run the gauntlet of any persons opposing it on any grounds they like to put forward. In 1915 there were twenty-six of these applications for restoration, of which eighteen were successful, one was withdrawn, and the remaining seven were pending at the date of the Report.

The Report contains many other interesting statistics, but we have only referred here to those which appear to be of general importance.

Interlocutory Proceedings in the High Court.

By Master T. Willes Chitty.

V.

Contrast with County Court Rules.—Now let us for a moment contrast the High Court rules with those of the county courts. A very slight examination and comparison will shew that the existing county court rules, and, I may add, the forms and appendices, are far better than those of the High Court. They are efficient, consistent, complete and up to date. And why? First, because the rules are made by a small committee of county court judges, who are practically acquainted with their working, who know from actual experience exactly what is wanted, and who can, and do, frame the rules and forms to meet the actual practical requirements. Moreover, they are in immediate touch and constant communication with the county court registrars, who are represented by their association. In the next place, the committee of county court judges meets regularly at short intervals of time for the revision of the rules and the consideration of suggested amendments and additions, so that the county court rules and forms are constantly kept up to date. Each amendment is now prefaced by a statement of the reason for it. Further, because from time to time county court rules are thoroughly revised, and a new and complete set of rules issued embodying all the amendments, alterations and additions that have been made since the last revised set. They were thoroughly revised in 1875, 1886 and 1903, and in 1914 a consolidation of all the amendments since 1903 was published.

Revision of High Court Rules.—What is wanted in the High Court is—

At the present time and immediately, a systematic revision, rearrangement and resettling of all the existing rules into one complete, self-contained and living set, from which all the obsolete and unworkable and unnecessary rules should be eliminated; in which many of the rules should be redrafted in view of the thirty-three years' experience we have had of the working of them; in which all the rules should be brought up to date, and arranged in regular order under their appropriate subjects, so that the rules relating to any particular subject should be complete and found in the same place. This could easily be done, provided the work was placed in the hands of one or two competent and experienced persons.

In the future, that the rules should be revised periodically and systematically at regular intervals. Practice, like other things, must grow with the times, and new rules must be from time to time produced, and the old ones altered, to meet the difficulties that cannot be anticipated in the revised set. Such new rules as are required should, of course, be so drafted as to meet the real requirements, and, so far as they are inconsistent with the old rules, the old rules should either be annulled or re-drafted. It is in most cases much better to annul the old rule and re-draft it, than to attempt to patch it up by saying that it should be read as if it meant something that it does not say, or as if it contained words which it does not contain.

The Rule-making Authority.—It remains to consider how these objects are to be effected. Our rules are framed by the Rule Committee. Now no one will suppose for one moment that it is intended to say or suggest anything that could by any possibility be construed as being disrespectful with regard to any of the individual members of that committee. They are persons who have earned positions of eminence and who have, and are, entitled to have our admiration and respect; but, nevertheless, it is suggested that, owing to the way in which the Rule Committee is constituted and the conditions under which it works, it is unable to deal with the present requirements.

In this connection it is of the utmost importance to recollect that by far the larger part of the rules relate to practice at chambers and in the Central Office, and not to the work in court or of the judges. Most of the members of the Rule Committee see very little of, and cannot be practically acquainted with, the practical working at chambers and in the Central Office. They are all busy men and fully occupied with matters of greater importance. They do not meet regularly or systematically. They are too numerous for practical work. There are no efficient means of communicating with them.

What we want is either one of two things—the re-constitution of the Rule Committee so as to include more persons engaged in the practice at chambers and in the Central Office, and who have time to attend to the work. But this alone would not suffice. The Rule Committee is already too numerous a body, and one or more small, practical sub-committees, say, one to deal with rules relating to chambers and another to deal with rules relating to the Court of Appeal and so on, should be formed, who should prepare any rules relating to their department and then obtain the approval of the main body. They should meet at regular and pretty frequent intervals.

The second alternative is that, leaving the Rule Committee as at present constituted, an independent and subordinate "Chamber Rule Committee" should be formed, composed of persons practically acquainted with the requirements at cham-

bers and at the Central Office, who should meet periodically and frame rules relating only to the practice at chambers and in the Central Office, and, if it is thought necessary, submit those rules to the consideration of the Rule Committee to be passed or rejected by them as they thought fit. The Rule Committee should give to some member of the subordinate committee an opportunity of attending before them and explaining the object of any proposed new rules.

Some more ready and efficient mode of inter-communication between the profession and the Rule Committee is required, but it is not desired to say anything further as to this at the present time, because there is reason to hope that steps in this direction will be taken which will remove some of the difficulty.

Settlement of Practice Points.—In addition to some amendment in the rules and the rule-making authority, we want some authority or tribunal to settle the various and multitudinous points of practice that are constantly arising in the course of daily practice. In this connection it is important to observe that often the same point of practice arises time after time, and in many cases it does not much matter which way it is decided so long as it is decided one way or the other, and that some means are found whereby the decision, when once given, shall be recorded and brought to the knowledge of practitioners.

At present, points of practice are settled on the hearing of the summonses or otherwise by the Masters, who do not always all decide the same way, although they endeavour to do so, and who would be very glad if they could obtain some authoritative and final decision on the matter. From the Masters there is an appeal to the Judge, and, subject to the appeal to the Court of Appeal, the decision of the Judge ought to be authoritative and final. But under our present system it is far from being so.

In the first place, the Judge who sits in chambers has not always had that recent and intimate acquaintance with chamber practice which is necessary to enable him to give a decision on points of chamber practice which will be accepted by the profession as authoritative or final. In the next place, the Judge in chambers is constantly being changed, and what one Judge decides this week in one way another Judge will decide the week after in a different way. This cannot be illustrated better than by taking as an example orders for particulars or orders for interrogatories. Some Judges seem to favour particulars and interrogatories, while other Judges seem to be all against them; and the unfortunate litigant, if he wants to know what is likely to happen if he appeals, has to ascertain, if he can, who is going to be the Judge at chambers before whom the appeal is likely to come. There is, in fact, a want of continuity and consistency in the decisions of the Judges at chambers.

Lastly, there are no efficient means of recording the decisions of the Judges at chambers or of making them known and available to practitioners generally.

Now this seems a very undesirable state of things, and results, of course, in frequent appeals and in the unfortunate litigant having to settle at great expense the points of practice as they arise in his individual case. The remedy appears to be clear. First, that the Judge who sits in chambers should be selected with regard to his special knowledge and practical acquaintance with the chamber practice. Some of the Judges have that special knowledge and practical acquaintance. Secondly, the Judge who sits at chambers should do so for a considerable period, and some means should be found for recording his decisions, or at all events the important ones, on matters of practice. It will be recollected that after the rules of 1883 came into operation, FIELD, J., afterwards Lord FIELD, who commenced his career as a solicitor, and who was thoroughly acquainted with chamber practice, sat for a considerable period at chambers, and many of his decisions were reported by Mr. BITTLESTONE, and the result was eminently satisfactory. But unfortunately the experiment has not been repeated.

Another plan which has often been suggested, and as some think a better one, would be to appoint a special and permanent Judge at chambers, who should be selected with a view to his special qualifications for the post. It does not much matter whether you call him "Judge in chambers" or what you call him. Such an appointment would release one of the Judges, and enable him to go back to his more important work in the courts, and would secure that continuity and consistency in the practice at chambers which is so eminently desirable.

In addition to this it would be desirable that there should be some authority for settling or giving directions as to what may be described as the minor points of practice. At present the Masters possess an indefinite power of giving practice directions and settling practice forms; but it would appear desirable that they should have an extended and more definite power of doing this, or that a small committee—possibly the Chamber Rule Committee above suggested with regard to the rule making—should have power to do this, subject, if it is thought advisable, to the directions being approved by the Lord Chancellor or the Rule Committee. This subordinate committee would, of course, have ample power and opportunity of consulting the managing clerks, the court officials, the solicitors and the Bar before giving their directions. I will give an example of what I mean. The rules made under the Courts (Emergency Powers) Act, which have since been amended in this respect, provided that the fee on any summons under that Act in the High Court should be 2s. 6d. Now some of the Taxing Masters thought that this made it unnecessary to put any stamp on affidavits used on the summons. Some of the King's Bench Masters thought that the 2s. 6d. only applied to the summons, and that the usual filing fee must be paid on the affidavit. There ought to be some authority to settle a point like this conclusively and at once one way or the other. What they did in the county court I do not know. The rule as actually published said: "On any summons in the county court (Qu. 1s.)"! ! ! Fortunately this has since been corrected.

(*Concluded.*)

Correspondence.

War and Foresight.

[*To the Editor of the Solicitors' Journal and Weekly Reporter.*]

Sir,—In your issue of 13th May you refer to the European War as "foreseen by none except a few Jeremiahs."

I should rather say "foreseen by everyone except the wilfully blind, or those who never studied the history of nations."

WILLIAM SHARP.

60, Watling-street, London, E.C., June 13.

[Yes, it is quite true. Our contributor, who was dealing with the "Probable Earnings of an Infant," used the words our correspondent quotes. They will be found *ante*, p. 474. And, though doubting, we did not strike them out. But they were inserted rather by way of enlivening a somewhat solid subject than as a formal statement of the reasonable attitude to have adopted before the war. No doubt as long as nations devote their energies to maintaining huge armies; and in particular when some particular nation revels in talk about "shining armour" and war-lords; it is a mistake—especially in the light of recent experience—to suppose that the armies will not be used. But the moral would carry us too far.—ED. *S.J.*]

War Risks (Insurance by Trustees) Act, 1916.

[*To the Editor of the Solicitors' Journal and Weekly Reporter.*]

Sir,—This Act, which you recently printed, shews up in very bold relief the incomprehensively foolish section 18 (1) of The Trustee Act, 1893.

The Legislature then in its ignorance empowered trustees to insure insurable property to any amount not exceeding three equal fourth parts of the full value of the property, and this means that with the usual average clause on, say, a 50 per cent. loss, all that the trustees would recover would be three-quarters of the 50 per cent.

Say total value £10,000, insurance £7,500, loss £5,000, the trustees would only recover £3,750 and the trust would lose £1,250. The extraordinary thing is that the Act of 1916 gives power to insure up to the full value, and modifies section 18 accordingly as to war risks, but leaves section 18 as to non-war risks untouched.

In the words of the immortal Lord Dundreary, it is a thing that no fellah can understand.

I presume the reason is that we have a Cabinet principally barristers and solicitors, but no lawyer amongst them.

E. T. HARGRAVES.

10, Coleman-street, E.C., June 13.

[We called attention to this point in commenting on the War Risks (Insurance by Trustees) Bill when introduced (*ante*, p. 180), but with a moderation to which Mr. Hargraves' more vigorous comments form a pleasing contrast.—ED. *S.J.*]

CASES OF LAST SITTINGS.

Court of Appeal.

HEATH'S GARAGE (LIM.) AND ANOTHER *v.* HODGES. No. 1. 11th and 12th May; 3rd June.

HIGHWAY—NEGLIGENCE—NUISANCE—SHEEP STRAYING ON HIGHWAY—DEFECTIVE FENCE—ACCIDENT TO VEHICLE—LIABILITY OF OWNER.

While a motor-car was being carefully driven at a reasonable speed along a highway, it encountered some sheep, the property of the defendant, which had escaped from his field through a defective hedge. One of the sheep having collided with the car, and thereby caused it serious damage, in an action by the owners of the car to recover damages for negligence, or nuisance,

Held, that there was no duty at common law imposed on an owner or occupier of land near a highway to prevent sheep or other naturally harmless animals from straying on the highway, and therefore that the defendant was not liable either for negligence or nuisance.

Cox *v.* Burbidge (1863, 13 *C. B. N. S.* 430) *applied.*

Appeal by the plaintiffs from a decision of the Divisional Court (reported *ante*, p. 458, and 1916, 1 K. B. 206). The plaintiff's motor-car was being driven along the public highway near Kenilworth, at between sixteen and twenty miles an hour, when the driver saw in front of him, about 200 yards away, a number of sheep unattended on the road. He put on his brakes, and most of the sheep got on one side of the road, but as he approached them two sheep, which had become separated from the others, jumped down from a bank on the near side of the road, and one of them ran in front of the car in an endeavour to rejoin the rest, colliding with it, and damaging the steering-gear. The result was that the driver lost control of the car, which ran into the bank at the side of the road, and was overturned and seriously damaged. No serious injury, however, was caused to its occupants. The sheep belonged to the defendant, a farmer who occupied land adjacent to the road, and they had escaped through a gap in his fence. The defendant was prosecuted, and fined under section 25 of the Highway Act, 1864, for having allowed his sheep to stray on to the road. The plaintiffs then brought this action for damages for negligence in the county court at Warwick. The county court judge held that the defendant had been guilty of negligence, or had committed a nuisance, in letting his sheep escape from his field through a defective hedge, and that the accident which happened was the natural consequence of such negligence. He gave judgment for the plaintiff. On appeal the Divisional Court reversed his decision, and the plaintiff now appealed to the Court of Appeal. *Cur. adv. vult.*

THE COURT dismissed the appeal.

Lord COZENS-HARDY, M.R., having stated the facts, proceeded: The first question to consider was what was the duty of the owner and occupier of land adjoining a highway. Was he bound at common law, apart from any duty imposed by a local Enclosure Act or by prescription or otherwise, to maintain a hedge or fence on his land so as to prevent sheep from straying on to the highway? It was remarkable that there was no direct decision exactly in point, but there were *dicta* which had to be considered. In *Goodwyn* v. *Cheveley* (4 H. & N. 634) Bramwell, B., said: "A person is not bound to fence his land," and Pollock, C.B., agreed with him. In *Jones* v. *Lee* (106 L. T. 123) Bankes, J., held that there was no duty on owners or occupiers of land adjoining a highway to prevent animals from straying on to it, and said it was not argued that any such duty could be created under the Highway Acts. In *Banyard* v. *Ellis* (106 L. T. 51) this view was approved by Buckley, L.J., but Vaughan Williams, L.J., dissented, at least if the sheep or cattle were so numerous as to obstruct the highway. In *Higgins* v. *Searle* (100 L. T. 280) the Court of Appeal approved of the same doctrine laid down at a later date by Bankes, J. In ordinary circumstances there was no duty to prevent harmless animals like sheep from straying on the highway, and it made no difference whether the action was sought to be based on negligence or on a nuisance to the highway. An animal like a sheep, which was by nature harmless, could not fairly be regarded as likely to come into collision with a motor-car, and the owner of the sheep could not be held liable on that footing. The reasoning of the Court of Common Pleas in *Cox* v. *Burbidge* (13 C. B. N. S. 430) seemed to cover the present case. It was true that under the Highway Acts, 1835 and 1864, penalties might be imposed on anyone whose cattle was found straying on the road. That was a new remedy given for the protection of the public, but it did not render a man liable to an action at law. The fine imposed by the justices was the only remedy available. It was conceded by counsel that there was no trace of any duty of an occupier of land towards a member of the public to be found; there had been no indictment for nuisance by permitting cattle to stray. The right of the owner of the soil of the highway to recover any damages that might be caused by sheep using the road not for the purposes of a highway would remain unaffected. The appeal would be dismissed with costs.

PICKFORD, L.J., and NEVILLE, J., delivered judgment to the same effect.—COUNSEL, *J. B. Matthews*, K.C., and *Arthur S. Ward*; *H. H. Joy*. SOLICITORS, *Clifford, Turner, & Hopton*, for *W. J. Rabnett*, Birmingham; *Griffith & Gardiner*, for *Maddocks, Ogden, & Co.*, Coventry.

[Reported by H. LANGFORD LEWIS, Barrister-at-Law.]

RITTERBANDT *v.* AUTO-VAN MAINTENANCE CO. (LIM.). No. 1 29th May.

PRACTICE—ORDER FOR NEW TRIAL—INADEQUACY OF DAMAGES—REPAYMENT OF DAMAGES AND COSTS PAID TO PLAINTIFF—STAY OF PROCEEDINGS UNTIL REPAYMENT.

Where a plaintiff has recovered damages in an action, and then, on appeal, obtains an order for a new trial on the ground that the damages awarded were inadequate, he must repay to the defendant any sum paid to him for damages and costs before proceeding to the new trial, and if he refuses to do so, the Court will order a stay of proceedings in the action until repayment is made.

Original motion by the defendant asking for a stay of proceedings. The plaintiff had been knocked down and seriously injured by a motor-van belonging to the defendants, and brought an action for damages for negligence, which came before Low, J., and a common jury. The plaintiff claimed ordinary damages for pain and suffering, and also special damages under certain items amounting to £67. The jury found for the plaintiff and awarded £67 for special damages, but nothing more. On appeal the Court of Appeal, on 10th May, ordered a new trial on the ground that the verdict was perverse and the damages inadequate. In the meantime the defendants had paid the damages and £118 for costs. The plaintiff gave notice of a new trial, but kept the money and refused to repay it. The defendants could not proceed to execution for it owing to the Courts (Emergency Powers) Act, 1914, and they applied to Bray, J., for an order for a stay of proceedings. Bray., J., dismissed the application, and the defendants now moved the Court of Appeal for an order staying proceedings until repayment of the money, and for liberty to enforce payment, notwithstanding the said Act.

Lord COZENS-HARDY, M.R., said the order of 10th May did not impose, as a condition for a new trial, the repayment of the two sums of £67 and £118, and the plaintiff now refusel to repay them. Apart from rules of court it was only fair on general principles that proceedings should be stayed until the money was repaid. The plaintiff repudiated the verdict altogether and claimed a new trial. It was not a mere question of costs. He was retaining the defendants' money, and he was bound to repay it before he went to the new trial. An order would be made staying the new action until a period of fourteen days had elapsed after repayment of the two sums of £67 and £118 to the defendants or their solicitors, on the defendants undertaking not to enforce such repayment for one month. The defendants' costs would be set off against the costs of the appeal and the costs ordered to be paid by Bray, J.

PICKFORD, L.J., and NEVILLE, J., concurred.—COUNSEL, *Thorne-Drury*, K.C., and *David White*; *Douglas M. Hogg* and *H. C. Marks*. SOLICITORS, *White & Co.*; *Ballantyne, Clifford, & Hett.*

[Reported by H. LANGFORD LEWIS, Barrister-at-Law.]

LEISTON GAS CO. (LIM.) *v.* LEISTON-CUM-SIZEWELL URBAN DISTRICT COUNCIL. No. 2. 24th, 25th, and 26th May; 9th June.

CONTRACT—IMPOSSIBILITY OF PERFORMANCE—GAS—GAS COMPANY—CONTRACT WITH LOCAL AUTHORITY—RESTRICTION OF LIGHTING UNDER DEFENCE OF REALM (CONSOLIDATION) REGULATIONS—LIABILITY FOR PAYMENTS DURING RESTRICTION.

The plaintiffs, a gas company, contracted with a local authority of a seaside town on the East Coast to provide gas lamps and supply gas within the district of the latter, for five years, under an agreement dated 2nd June, 1911, in consideration of fixed quarterly payments. The plaintiffs did the work and supplied gas until the end of 1914. By an order under the Regulations of the Defence of the Realm Acts, 1914-1915, the lighting of any lamps visible from the sea at all for three quarters of one of these years was prohibited. In an action by the gas company under order 14 to recover £157 15s. 9d. for services rendered to the defendants in pursuance of the agreement of 2nd June, 1911, the defendants pleaded that the performance of the agreement had been rendered impossible by the order prohibiting street lights, and that they were relieved from their contract during the continuance of that order.

Held, after consideration, that the gas company were entitled to payment for the three quarters in question. The order did not render the lighting unlawful once and for all. Under the contract the supply of gas was not intended to be a condition precedent to the right to recover for the performance of the various services rendered. Those services might have been paid for separately; but the parties had chosen to pay an inclusive sum. Moreover, if the restriction in the present case were relaxed at any time during the term of the contract, and the plaintiffs failed to fulfil their obligations, the defendants would have a good cause of action against them.

Decision of Low, J. (*reported p.* 556, 14 *L. G. Rep.* 464, 32 *T. L. R.* 287), *affirmed.*

Appeal by the defendants from a decision of Low, J. The plaintiffs sued the defendants under ord. 14, r. 8, to recover £157 15s. 9d. for services rendered under an agreement dated 2nd June, 1911. The agreement, which was to continue for five years certain, provided that the plaintiffs should supply and maintain 101 street lamps, supply gas to the standards, light and extinguish the lamps, and keep the installation in repair for a fixed sum a year, to be paid quarterly. Under the agreement the plaintiffs did the work and supplied gas till the end of 1914, when, owing to regulations made under the Defence of the Realm Act, 1914, an order was made the result of which was that the defendants extinguished all their street lamps from 23rd January, 1915, onwards. The action was brought to recover payment for three quarters ending 30th September, 1915. The defendants pleaded that, inasmuch as the performance of the contract had been rendered unlawful or impossible by statute, or since, at any rate, the contract was suspended, they were relieved from liability to pay the sum claimed. Low, J., held that the order under the Defence of the Realm Act did not render the lighting unlawful or the contract impossible within the principle of the cases cited, in that it did not render the lighting absolutely and completely unlawful, or the further performance of the contract once and for all impossible, as the order might be relaxed at any time. Accordingly he entered judgment for the plaintiffs. The defendants appealed.

THE COURT reserved judgment.

Viscount READING, C.J., in giving judgment, said there was no doubt that when a party contracted to perform an act lawful at the time of the making of the contract, which thereafter became impossible of performance by reason of a change in the law, he was discharged from the obligation under the contract: *Baily* v. *de Crespigny* (1869, L. R. 4 Q. B. 180). Again, the law was well settled in cases where the subject-matter of the contract had ceased to exist. The law on this subject was considered recently in the House of Lords in *Horlock* v. *Beal* (60 SOLICITORS' JOURNAL, 236; 1916, A. C. 486), and was summarized at p. 525 by Lord Wrenbury, who said: "Where a contract has been entered into, and by a supervening cause beyond the control of either party its performance has become impossible, I take the law to be as follows: If a party has expressly contracted to do a lawful act, come what will—if, in other words, he has taken upon himself the risk of such a supervening cause—he is liable if it occurs, because by the very hypothesis he has contracted to be liable. But if he has not expressly so contracted, and from the nature of the contract it appears that the parties from the first must have known that its fulfilment would become impossible if such a supervening cause occurred, then upon such a cause occurring both parties are excused from performance. In that case a condition is implied that, if performance becomes impossible, the contract shall not remain binding." The question upon which side of the line as there defined a particular case fell was often a difficult matter, and had to depend on the true effect of the contract. In the present case it was not intended that the supply of gas should be a condition precedent to the right to recover the quarterly payments. Under the agreement there was an inclusive payment for all the services, and the consideration could not be apportioned. It followed that the appeal failed.

WARRINGTON, L.J., and SCRUTTON, J., gave judgment to the same effect. Appeal dismissed.—COUNSEL, for the defendants, *Hawke*, K.C., and *A. H. Poyser*; for the plaintiffs, *J. B. Matthews*, K.C., and *Rayner Goddard*. SOLICITORS, *Frank Graham*, for *H. A. Mullens*, Leiston; *Mackrell, Maton, & Co.*

[Reported by ERSKINE REID, Barrister-at-Law.]

High Court—Chancery Division.

***Re* SMITH. LAWRENCE *v.* KITSON.** Eve, J. 31st March.

CONFLICT OF LAWS—EQUITABLE CHARGE—CONTRACT TO EXECUTE A LEGAL MORTGAGE—LAND IN DOMINICA—JURISDICTION IN PERSONAM—SPECIFIC PERFORMANCE—LEX SITUS.

The testator gave to his two sisters an equitable charge on land in Dominica to secure certain advances made by them to him, and he agreed to execute a legal mortgage. The charge did not legally affect immovables in Dominica. The testator died without having executed a legal mortgage, and the question arose whether the sisters could call upon the legal personal representative of the testator to execute a legal mortgage.

Held, that the Court acting in personam *must give effect to the equitable right by ordering the execution of a legal mortgage.*

British South Africa Co. *v.* De Beers Consolidated Mines (1910, 2 *Ch.* 502) *applied.*

In 1907, the testator, being in financial difficulties, had recourse to his two sisters, who deposited securities with his bank to meet certain loans made to him. On 9th October, 1907, he executed a document whereby, in consideration of £1,000 due to his two sisters, the testator purported to charge his share and interest in plantations, lands, fixtures, furniture, and appurtenances thereto belonging, situate in the island of Dominica, for securing the repayment of the £1,000 and further advances by his two sisters, and the testator thereby agreed to execute a legal mortgage of the property to them. On 17th July, 1912, the testator, in acknowledging his indebtedness in the further sum of £1,000, stated that the above charge was intended to be a collateral security with other charges given by him in respect of all advances made to him by his two sisters. From the evidence it appeared that the document of 9th October, 1907, could not legally affect immovables in Dominica. The testator died on 12th February, 1913, insolvent, and without having executed a legal mortgage. An administration action having been brought for the administration of the testator's estate, the question was raised whether, as against the other creditors of the testator, his two sisters could require the legal personal representative of the testator to execute a legal mortgage to them in respect of their advances. It was argued that, assuming that the *lex loci contractus*, which in this case was England, was the proper law of the contract, that rule did not extend to third parties implicated in the contract.

EVE, J., said the question involved in this case was whether the contract entered into by the testator ought to be carried out, or whether it was no longer enforceable. It was clear on the evidence that the document of 9th October, 1907, could not legally affect immovables in Dominica. The testator died without having executed a legal mortgage, and the question arose whether his two sisters could now call upon his legal personal representative to execute a legal mortgage. The present case was governed by the decision in *British South Africa Co.* v. *De Beers Consolidated Mines* (1910, 2 Ch. 502), where Cozens-Hardy, M.R., said:—"In my opinion an English contract to give a mortgage on foreign land, although the mortgage has to be perfected according to the *lex situs*, is a contract to give a mortgage which, *inter partes*, is to be treated as an English mortgage, and subject to such rights of redemption and such equities as the law of England regards as necessarily incident to a mortgage." But it was said that the Court of Appeal was there dealing with a matter *inter partes*, and that the decision did not extend to third parties affected by the contract. In his lordship's opinion there was a fallacy in that argument. When once it was ascertained by what law the contract was to be construed, it could not be altered by the death of one of the parties, or by the fact that third parties were affected by it. The Court had before it the parties to a contract affecting immovables out of the jurisdiction, and,

acting *in personam*, it must give effect to the equitable right by ordering the legal personal representative to execute a legal mortgage.—COUNSEL, *Edmund Buckley; de Montmorency.* SOLICITORS, *Beaumont & Son; H. E. Lawrence.*

[Reported by S. E. WILLIAMS, Barrister-at-Law.]

MACCONNELL *v.* E. PRILL & CO. (LIM.) AND OTHERS.
Sargant, J. 5th and 11th May.

COMPANY—INCREASE OF CAPITAL—EXTRAORDINARY RESOLUTION—NOTICE OF—SUFFICIENCY OF NOTICE—COMPANIES (CONSOLIDATION) ACT, 1908 (8 ED. 7, C. 69), S. 69.

Specific notice should be given to shareholders of what is intended to be done where it is desired to pass a resolution to increase the capital of the company, and not a general notice stating the agenda of the meeting to be "to pass resolution to increase the capital of the company."

The language of section 69 of the Companies (Consolidation) Act, 1908, is clear and definite, and the cases decided under section 129 (3) of the Companies Act, 1862, do not affect the necessity for inserting in the notice, in the case of an extraordinary resolution, the intention to propose the resolution as an extraordinary resolution.

The presumption that a Consolidation Act is only intended to reproduce the existing position is merely a primâ facie presumption, and can be rebutted by the internal evidence of the Act itself.

The law as to extraordinary resolutions in the Companies (Consolidation) Act, 1908, differs materially from that in the Companies Act, 1862.

This was a motion for an interim injunction to restrain the company from acting on or carrying into effect a resolution passed at an extraordinary general meeting of the company purporting to increase its capital. The notice of the meeting simply said to each shareholder: "You are kindly requested to attend an extraordinary general meeting, to be held at the above address on Friday, 25th February, 1916, at twelve noon. Agenda: To pass resolution to increase capital of the company." The resolution passed was:—"That the capital of the company be increased to £3,500 by the creation and issue of 1,500 shares of £1 each." The company was in part governed by articles corresponding to Table A in the First Schedule to the Companies (Consolidation) Act, 1908, and clause 41 of that Table, which was applicable, is as follows:—"The directors may, with the sanction of an extraordinary resolution of the company, increase the capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe." The plaintiff sued on behalf of herself and all the shareholders of the company other than the defendants, and she contended that the notice was insufficient, (1) because it did not specify the resolution which was actually passed, and (2) that it did not state that the intention was to pass the resolution as an extraordinary resolution. The company contended that the notice was sufficient. *Cur. adv. vult.*

SARGANT, J., in the course of his judgment, said: As regards the first objection, it is obvious that the notice signifies merely an intention to propose some increase or other in the capital of the company, and not an intention to make the specific increase embodied in the resolution that was actually passed. It seems to me that shareholders should be protected in matters of this kind by specific notice of what is intended to be done. And there is a marked difference between the very definite language in this respect of section 69 of the Companies (Consolidation) Act, 1908, and the much looser and general language of article 49 in Table A with regard to notice of any special business that is proposed to be transacted at a meeting of the company. In the latter case notice is required only of the general nature of any special business to be transacted, while in the case of an extraordinary resolution the notice has to specify the resolution. As to the second objection, nothing can be clearer than the very precise language of section 69, which requires, in the case of an extraordinary resolution, that the notice shall specify the intention to propose the resolution as an extraordinary resolution. So clear, indeed, is the language that it was at one time doubted, until the doubt was dispelled in *Re Penarth Pontoon Slipway and Ship Repairing Co.* (1911, W. N. 240), whether it had not become necessary, even for the validity of a special resolution under the Act of 1908, that the notice of the first meeting should contain words specifying the intention to pass the resolution at that first meeting as an extraordinary resolution. And in the case of an extraordinary resolution itself, the only reason suggested for doubting the necessity for inserting these words in the notice appears to arise from the decisions under section 129 (3) of the Companies Act, 1862. Those decisions, however, did not turn on any express definition of the phrase "extraordinary resolution" in the Act of 1862, but merely on the question whether the notice that had been sent gave shareholders sufficient warning that it was intended to put the company into liquidation by a single extraordinary resolution under section 129 (3) of the Act, rather than by the more normal process of a special resolution. Further, as regards the whole subject of an extraordinary resolution, the present Act of 1908 differs materially from the Act of 1862. The definition in that Act of the expression "extraordinary resolution" was not a general one, and was used merely for the purpose of defining the method of winding up a company summarily under section 129 (3). But in the present Act the definition of an "extraordinary resolution" in section 69 is quite general, and extends at least to one new matter—namely, the provision in article 41 of Table A, as redrawn in 1906, and enacted in the same terms in 1908, as to increasing the capital of a company. It will be noticed also that, whereas the Act of 1862 first defined a special resolution and then defined an extraordinary resolution with reference to that first definition, the present Act first defines an extraordinary resolution and then defines a special resolution with reference to the definition of an extraordinary resolution. No doubt the *primâ facie* presumption in the case of a Consolidation Act, such as the present Companies Act of 1908, is that the Legislature intended to reproduce the existing position, and my first inclination would be to hold that, as under section 129 (3) of the 1862 Act, any notice is sufficient which sufficiently informs shareholders of the intention to act by way of extraordinary resolution. But this *primâ facie* view must yield to plain words to the contrary. Accordingly, I grant an interlocutory injunction until the hearing of the action, in the terms of the notice of motion. —COUNSEL, *Manning; Bischoff.* SOLICITORS, *A. E. Timbrell; M. A. Jacobs.*

[Reported by L. M. MAY, Barrister-at-Law.]

King's Bench Division.

LEISTON GAS CO. (LIM.) *v.* LEISTON-CUM-SIZEWELL URBAN DISTRICT COUNCIL. Low, J. 22nd January; 1st February.

CONTRACT—PUBLIC LIGHTING—ERECTION OF PLANT AND SUPPLY OF GAS—ORDER PROHIBITING LIGHTING—EFFECT ON CONTRACT—DEFENCE OF THE REALM (CONSOLIDATION) REGULATIONS, 1914.

A contract for the supply and erection of plant for public lighting and for the supply of gas for a period of years, in consideration of an annual payment per lamp, is not rendered illegal, or impossible of performance, by reason of an order, under the Defence of the Realm Regulations, prohibiting the lighting of lamps in the particular district for an indefinite period.

Action tried by Low, J., without a jury. By an agreement in writing, dated 2nd June, 1911, the plaintiff company agreed to provide "columns, lanterns and inverted incandescent burners, complete with automatic lighters, and connect same to their mains by 1st August, 1911," and during the continuance of the agreement to "supply gas, light, extinguish, clean, repair, paint and maintain the said lamps in all matters incident to fair usage, including the provision of incandescent mantles and chimneys as required." The defendant council were to pay a fixed sum per lamp per annum, payments to be made in four equal quarterly instalments of £50 14s. 4d. The agreement was for a period of five years. The plaintiff company carried out the work required by the agreement, and had supplied gas down to 23rd January, 1915. On that date an order was issued under the Defence of the Realm (Consolidation) Regulations, 1914, prohibiting the lighting of lamps in the defendant council's area. The council thereupon repudiated their liability to continue payment under the contract. The plaintiff company, who had continued to keep and maintain the lighting system in repair since the date of the order, in accordance with their obligation under the contract, and who were ready and willing to continue the supply of gas on the withdrawal of the order, then brought this action to recover the amount due under the contract for the three quarters ending 30th September, 1915. It was contended for the plaintiffs that the order did not put an end to the contract. In so far as the supply and erection of plant was concerned the contract was an executed one, and the annual payments agreed to be paid by the defendants were in consideration of the erection of the plant, &c., as well as of the gas supplied, and unless the payments were continued for the stipulated period of five years the plaintiffs would be deprived of the money expended in erecting the plant. For the defendants it was contended that the order rendered the performance of the contract illegal and impossible; that the basis of the contract was the supply of gas for the illumination of the defendants' district, and that as no gas was, or could be, supplied by reason of the order, the contract was terminated: *Geipel* v. *Smith* (L. R. 7 Q. B. 404); *Hadley* v. *Clarke* (8 Term Rep. 259); *Esposito* v. *Bowden* (7 E. & B. 764); *Baily* v. *de Crespigny* (L. R. 4 Q. B. 180); *Krell* v. *Henry* (1903, 2 K. B. 740);

Shipton, Anderson, & Co. v. *Harrison Bros.* (1915, 3 K. B. 676); and *Tamplin Steamship Co.* v. *Anglo-Mexican Petroleum Products Co.* (1915, 3 K. B. 668) were referred to. *Cur. adv. vult.*

Low, J., in a written judgment, said: In this action the plaintiff company claimed from the local authority three quarterly payments said to be due under an agreement dated 2nd June, 1911. The agreement was for five years from 1st August, 1911, and was to remain in force until determined by either party's giving six calendar months' written notice expiring on 31st July, 1916, or on 31st July of any subsequent year. No notice to determine had been given. By clause 2 of the agreement the plaintiffs undertook to provide columns, lanterns and burners, and to connect same to their mains by 1st August, 1911, the whole of the plant to remain the property of the plaintiffs. This obligation was duly performed, and, so far as this was concerned, the contract was not executory, but executed. Further, by clause 4 it was provided that, during the contract period, the plaintiffs were to supply gas, light, extinguish, clean, repair, paint and maintain the lamps, &c. It was not alleged that this obligation had not been performed, with the exception that the supply of gas light was stopped by an order made by a competent military authority, under the Defence of the Realm Acts, 1914 and 1915, which prohibited the lighting of all the lamps referred to in the agreement. Accordingly, from 26th January to the end of the period claimed for none of the lamps were allowed to be lit. Under these circumstances it was contended on behalf of the defendants that, immediately the order was made totally forbidding the lighting of the lamps, the agreement came to an end, and the plaintiffs were entitled to remove and dispose of the lamps and other plant, and the defendants were absolved from making any further payments. In support of this proposition the defendants relied on *Esposito* v. *Bowden* (*supra*), *Baily* v. *de Crespigny* (*supra*), *Krell* v. *Henry* (*supra*), and *Geipel* v. *Smith* (*supra*), and the authorities cited in those cases. He had to consider first what the contract was, and it appeared to him that it was not only a contract to furnish light, but also a contract to furnish for a given period the necessary plant, and it was impossible to distinguish in the amount agreed to be paid per lamp how much was deferred payment spread over the period for furnishing the plant, and how much was for the actual gas consumed. Next he had to consider whether the provision of plant and supply of gas in the defendants' district had become unlawful within the meaning of the cases cited. He did not think that it was correct to say that, because in time of emergency, power was given for a competent authority to suspend the actual lighting in a given area for such times as might be considered necessary for national safety, and such power was exercised, that a provision for lighting within that area became unlawful within the meaning of those authorities, nor did he think that it rendered it impossible within the meaning of the *Coronation case* and the *Voyage cases* referred to. What the Court in those cases considered was a state of things which rendered the carrying out of the contract absolutely and completely unlawful or once for all impossible. In this case it was impossible; from day to day or from week to week, to tell whether it might be necessary to stop all or some only of the lights, or whether it would be possible to resume lighting altogether, and, in his view, the plaintiffs must be ready on the repeal or relaxation of the restriction to go on providing the light, and must keep the whole of the apparatus in working order ready for the purpose, and it did not appear to him to be material that the restriction, which might possibly have been a very short one, had turned out to be in fact of considerable length. He was also of opinion that this contract was an executed contract in the sense which he had stated above, and that it was impossible to divide the charge per lamp, and say so much only was due for plant and so much for gas actually burnt. He therefore came to the conclusion that, by the exercise by the authorities of their powers under the Defence of the Realm Acts, the performance of this contract had not been rendered either unlawful or impossible within the meaning of the cases to which reference had been made. As to the defendants' contention that he ought to treat the contract as suspended during the time the order under the Defence of the Realm Acts was in force, he could see no ground which would entitle him to take such a course. There must be judgment for the plaintiffs for the amount claimed, with costs. Judgment of the plaintiffs.—SOLICITORS, *Mackrell, Maton, Godlee, & Quincey; Frank A. Graham*, for *Harold A. Mullens*, Leiston.

[Reported by L. H. BARNES, Barrister-at-Law.]

Pretending to be a Solicitor.

Charles James Newland, *alias* Samuel Forbes, of Brick House, Wimbish, Essex, was summoned at the instance of the Law Society at Saffron Walden Petty Sessions under the Solicitors Act, 1874, Section 12, for pretending to be a solicitor. The defendant failed to appear to the summons, and was subsequently arrested on a warrant, upon which he was brought up on Tuesday, 13th June. The complaint was founded on a letter having a printed heading: "Samuel Forbes, Solicitor," Brick House, Wimbish, Essex, and was as follows:—"20-9-15: Dear Sirs,—Please to insert the following announcement in your issue, and send on replies together with a/c for same, Personal Column.—Yours faithfully, SAMUEL FORBES:—Matrimony: Gentleman, age 36, holding Government appointment, wishes to make the acquaintance of a refined lady of good Yorkshire family in view of marriage. Only genuine applicants need reply. Bankers' and solicitors' references given. Means not a consideration. Must be a Protestant. Address full particulars to Box —."

This letter was sent to the *Doncaster Gazette*, who, in view of the knowledge they possessed of the defendant, declined to insert his advertisement and sent his letter to the Law Society, who instituted proceedings.

No person of the name of "Samuel Forbes" appeared on the Roll of Solicitors for 1915. Before the case was opened by Mr. Robert Humphreys, who appeared for the Law Society, the defendant was given permission to make a statement, which, he said, was intended to clear his character in the neighbourhood. He alleged that he had been accused of being a German spy because he went out with a lantern one night to find a lost chicken. The police and military visited the house with a view to finding wireless apparatus, etc., but found nothing relating to such charge. He added that he was an Englishman, and born at Limehouse in 1875. The evidence showed that no person of the name of Samuel Forbes appeared on the Roll of Solicitors for 1915, and that the defendant was clearly the writer of the letter, but the defendant's story was that a Mr. Samuel Forbes, whom he had known for a long time and was a writer to the *Signet*, and as he (the defendant) believed, was duly qualified to act as a solicitor, had on one of the visits to the defendant's house, written the letter in question. In cross-examination, however, the defendant was unable to substantiate this story, and admitted that he did not know the man's present address, nor had he made any effort to call him as a witness. The defendant also had to admit that he had posed as a matrimonial agent, a farmer, a commission agent, and as "The National Hire Purchase Mutual Insurance Protection Association," that he had operated under at least twelve different *aliases* in different parts of the country, and he had also been convicted of an offence under the Aliens Restriction Order for having made a false return on a registration form.

He was convicted and ordered to pay a penalty of £5 and £6 19s. 6d. costs; in default of distress, two months' imprisonment. There being no goods sufficient for distraint, defendant was taken into custody.

The Order of the Sons of Temperance (373,924 members), in conference at Manchester on Monday, passed a resolution urging the Government, in the interests of national efficiency, health, and economy, to prohibit the manufacture and sale of intoxicating liquors during the war and for six months afterwards.

New Orders, &c.

War Orders and Proclamations.

The *London Gazette* of 9th June contains the following:—

1. A Proclamation, dated 8th June, under the Bank Holidays Act, 1871, the Holidays Extension Act, 1875, and the Customs Consolidation Act, 1876, appointing Tuesday, 8th August next, to be observed as a Bank Holiday and a Public Holiday in England and Wales, and in Ireland, under and in accordance with the said Acts, instead of the Monday in Whitsun week.

2. A Proclamation, dated 8th June, reciting that a difference within the meaning of section 3 of the Munitions of War Act, 1915, exists between employers and persons employed on the work of dock labourers in the Port of Liverpool as to rates of wages, hours of work, and otherwise as to terms and conditions of or affecting employment on the work carried on by such dock labourers, and directing that Part I. of the Act shall apply to such difference.

3. An Order in Council, dated 8th June (printed below), further amending the Defence of the Realm (Consolidation) Regulations, 1914.

4. An Order in Council, dated 7th June, 1916, further amending the Proclamation of 10th May, 1916 (*ante*, p. 482), prohibiting the exportation from the United Kingdom of certain articles to certain or all destinations. The alterations include the moving of potatoes from the "C" to the "A" list; that is, their exportation is now prohibited to all destinations.

5. A Notice that Orders have been made under the Trading with the Enemy Amendment Act, 1916, requiring 11 more businesses to be wound up, bringing the number to 194.

6. A War Office Notice, dated 8th June (printed below), as to dealings in raw wool.

7. An Admiralty Notice to Mariners, dated 6th June, that a Defence of the Realm Regulation has been made prohibiting neutral vessels and neutral aliens in British vessels from entering the Medway and Swale Rivers. The material part of the Notice is printed below.

The *London Gazette* of 13th June contains the following:—

8. An Order in Council, dated 8th June, extending to the Isle of Man, with certain adaptations, the Defence of the Realm Amendment Regulations of 10th May, 1916 (*ante*, p. 482).

9. A Foreign Office Notice, dated 13th June, that certain additions and corrections have been made to the lists published as a supplement to the *London Gazette* of 16th May, 1916, of persons to whom articles to be exported to China may be consigned.

10. A Board of Trade Order (printed below) for the taking of a Census of Petrol.

11. A Board of Trade Notice under the Trading with the Enemy Amendment Act, 1916, requiring two more businesses to be wound up, bringing the number to 196.

12. An Admiralty Notice to Mariners, dated 9th June (printed below), with respect to Mined Areas in the North Sea.

13. An Admiralty Notice to Mariners, dated 9th June (No. 619, of the year 1916, repeating Nos. 527 and 603 of 1916, with amendments to No. 527), making Pilotage Traffic Regulations for the English Channel, North Sea, and Rivers Thames and Medway, &c.

Defence of the Realm Regulations.

ORDER IN COUNCIL.

[Recitals.]

It is hereby ordered that the following amendments be made in the Defence of the Realm (Consolidation) Regulations, 1914:—

1. After Regulation 9A the following regulation shall be inserted:—

"9B. Where there is reason to apprehend that the holding of any race meeting will impede or delay the production, repair, or transport of war material or any work necessary for the successful prosecution of the war, it shall be lawful for the Minister of Munitions to make an order prohibiting the holding of the race meeting; and if the race meeting is attempted to be held in contravention of any such prohibition, it shall be lawful to take such steps as may be necessary to prevent the holding thereof.

"In the case of a race meeting to be held after the fifteenth day of June, nineteen hundred and sixteen, before the meeting is held, at least seven clear days' notice in writing shall be sent to the Minister of Munitions.

"If any person takes part in the control, management, or organization of any race meeting which is prohibited under this section or in respect of which such notice as aforesaid has not been given, or allows any horse to run at any such meeting, or brings any horse to a place where any such meeting is proposed to be held for the purpose of taking part in any race, he shall be guilty of a summary offence against these regulations.

"For the purpose of this regulation, 'race meeting' means any meeting for racing with horses open to the public, whether on payment or otherwise."

2. In Regulation 14B, after the words "guilty of an offence against these Regulations," there shall be inserted the words "and any person interned under such order shall be subject to the like restrictions and may be dealt with in like manner as a prisoner of war, except so far as the Secretary of State may relax such restrictions."

3. The Regulation which, by the Order in Council of the first day of June, nineteen hundred and sixteen, was directed to be inserted after Regulation 39 shall, instead of being inserted after that Regulation, be inserted after Regulation 39A, and shall be substituted for the Regulation which, by the Order in Council of the twenty-second day of December, nineteen hundred and fifteen, was directed to be inserted after Regulation 39A.

4. Regulation 58D shall have effect and shall be deemed always to have had effect as if the proviso hereinafter mentioned were added thereto, and accordingly at the end of the said regulation the following proviso shall be inserted:—

"Provided that nothing in this regulation shall be construed as affecting the powers of commanding officers to deal summarily with offences under the Army Act, or of courts of summary jurisdiction to deal with offences punishable on summary conviction."

Prohibition of the Purchase and Sale of British and Irish Wool of 1916 Clip.

War Office,
8th June, 1916.

Order.

In pursuance of the powers conferred on them by Regulation 30A of the Defence of the Realm (Consolidation) Regulations, 1914, the Army Council do hereby order as follows:—

"No person shall from the date of this Order, until further notice, buy, sell, or deal in raw wool grown or to be grown on sheep in Great Britain or Ireland during the season of 1916."

Defence of the Realm Regulations.

ADMIRALTY NOTICE TO MARINERS.

No. 603 of the year 1916.

Notice is hereby given that, under the Defence of the Realm (Consolidation) Regulations, 1914, the following Regulations have been made by the Lords Commissioners of the Admiralty and are now in force:—

1. All vessels, other than those of British Nationality or those of the Allied Nations, are prohibited from entering the Medway and Swale rivers.

2. All Neutral Aliens are prohibited from entering the Medway and Swale rivers in British vessels, and this applies to Aliens carried in British ships or barges as passengers or part of crew; the limits of the prohibited area are defined as from the Outer Bar buoy in the River Medway to Rochester bridge, and the whole of the River Swale from the light on Queenborough spit to Columbine spit buoy. Attention is drawn to the necessity of shipowners and charterers satisfying themselves that no Neutral Aliens are on board vessels sent to the Rivers Medway and Swale.

Defence of the Realm Regulations.

CENSUS OF PETROL.

The Board of Trade, in pursuance of the powers conferred on them by Regulation 15A of the Defence of the Realm (Consolidation) Regulations, 1914, and of all other powers them hereunto enabling, Do Hereby Order and Require that every person within the United Kingdom of Great Britain and Ireland who uses or keeps motor spirit, whether for the purpose of supplying motive power to motor cars or for any other purpose, shall, on or before the 20th day of June, 1916, supply to the Secretary of the Petrol Control Committee, at the Census of Production Office, 68, Victoria-street, London, S.W., the information in relation to the motor spirit used or kept by him and of the purposes for which and the manner in which it is used or kept by him, the particulars of which are specified in the Schedule hereto, and which shall be supplied on the forms therein referred to, which have been approved by the Board of Trade.

Dated this ninth day of June, 1916.

W. F. MARWOOD,
A Secretary of the Board of Trade.

SCHEDULE.

1. The present stock of motor spirit being used or kept by the person making the return.

2. The number of motor cars, motor cycles, and/or the number

and nature of other motor vehicles supplied with motive power by motor spirit used or kept by the person making the return, together with, as regards such motor cars, motor cycles, and/or other motor vehicles :—

(a) The registration number of any such motor car, motor cycle and/or other motor vehicle in cases where full motor car licence duty is payable or in cases where the car, cycle, or vehicle is kept by medical practitioners for the purposes of their profession;

(b) The average consumption of motor spirit supplying motive power to any such motor car, motor cycle, and/or other motor vehicle per calendar month during the three calendar months ending 30th April, 1916;

(c) The estimated requirements of motor spirit for supplying motive power to any such motor car, motor cycle and/or other motor vehicle per calendar month until the end of the year 1916;

(d) The purposes for which any such motor car, motor cycle and/or other motor vehicle is used; or the class of goods conveyed thereby.

And as regards motor cars, motor cycles and/or other motor vehicles supplied with motive power by motor spirit used or kept by the person making the return which are used as hackney carriages or which are constructed or adapted solely for the conveyance of goods or which are not motor cars, motor cycles or motor vehicles falling under 2 (a), then also—

3. The quantity of motor spirit supplied per calendar month under contract (if any) to the person making the return, and the names and addresses of the suppliers of such motor spirit under any such contract.

And as regards motor spirit used or kept by the person making the return for any purpose other than supplying motive power to motor cars, motor cycles and/or other motor vehicles, then—

4. (a) The purposes for which such motor spirit is used;

(b) The quantity of motor spirit supplied per calendar month under contract (if any) to the person making the return, and the names and addresses of the suppliers of such motor spirit under any such contract.

N.B.—The following forms of return, which (together with an addressed envelope) may be obtained at any Money Order Office in the United Kingdom, have been approved and are being issued by the Board of Trade :—

Petrol Form 1, Petrol Form 2, Petrol Form 3, Petrol Form 4, Petrol Form 5.

N.B.—Any person failing to comply with the requirements of this Order or who knowingly gives any false information is guilty of a summary offence against the Defence of the Realm (Consolidation) Regulations, 1914.

Admiralty Notice to Mariners.

No. 618 of the year 1916.

NORTH SEA.

Caution with regard to Mined Areas.

Former Notice.—No. 541 of 1916; hereby cancelled.

Caution.—Mariners are warned that a system of minefields has been established by H.M. Government upon a considerable scale.

All vessels are strongly advised to obtain a London Trinity House pilot when navigating between Great Yarmouth and the English Channel.

It is dangerous for vessels to enter the following areas :—

(a) The area enclosed between the parallels of latitude 51° 15′ N. and 51° 40′ N., and the meridians of longitude 1° 35′ E. and 3° 18′ E.

(b) The area enclosed between the parallels of latitude 51° 40′ N. and 52° 00′ N., and the meridians of longitude 1° 55′ E. and 2° 32′ E.

Remarks.—Although these limits are assigned to the danger areas, it must not be supposed that navigation is necessarily safe in any portion of the southern waters of the North Sea.

Note.—This Notice is a repetition of Notice No. 541 of 1916, with addition of the danger area specified in paragraph (b).

Authority.—The Lords Commissioners of the Admiralty.

By Command of their Lordships,

J. F. Parry, *Hydrographer.*

Hydrographic Department, Admiralty, London, 9th June, 1916.

Societies.

The Coroners' Society of England and Wales.

At the annual general meeting of the above society, held in London on 8th June, Mr. F. N. Molesworth, solicitor, H.M. Coroner for the Rochdale Division of Lancashire, was unanimously elected president for the ensuing year, in succession to Dr. F. J. Waldo, J.P., of the Middle Temple, barrister-at-law, and H.M. Coroner for the city of London and ancient borough and vill. of Southwark. Owing to the war the usual banquet was withheld The members of the Council were entertained at lunch by the outgoing president (Dr. Waldo).

Belgian Lawyers Relief Fund.

The following further donations have been made to this fund :—

	£	s.	d.
The Right Hon. Lord Justice Bankes	25	0	0
R. M. English, Esq.	20	0	0
The Right Hon. Lord Justice Warrington ...	10	0	0
Graham Hastings, Esq., K.C.	10	0	0
E. M. Konstam, Esq....	5	0	0
William O. Willis, Esq.	5	0	0
Ernest Page, Esq., K.C.	3	3	0
G. J. Talbot, Esq.	3	0	0
R. S. Barnes, Esq.	2	2	0
F. Mead, Esq.	2	2	0
William Brewer, Esq.	1	1	0
Evan R. Davies, Esq.	1	1	0
Messrs. Dunderdale, Dehn, & Co.	1	1	0
H. Winstanley, Esq.	1	1	0
"Anonymous"	1	0	0

Obituary.

Qui ante diem periit,
Sed miles, sed pro patria.

Lieutenant James W. Lewis.

Lieutenant James Windsor Lewis, Welsh Guards, who was killed last week, was the only son of Mr. James Lewis, of Plasdraw, Aberdare, and a nephew of the Bishop of St. Asaph. He was educated at Bradfield and Magdalen College, Oxford, and was a member of the Inner Temple. He joined the 19th Hussars, and served in the South African War. Retiring in 1905, he contested as Unionist candidate the Cleveland Division of Yorkshire against Mr. H. Samuel in 1909 and 1911, and for the last three years was the Unionist candidate for North Somerset. In 1907 he undertook an inquiry for Lord Roberts and the National Service League into the Norwegian system of universal military service, and his report, together with one by Colonel Radcliffe on

the Swedish system, was published under the title, "A Territorial Army in Being." Mr. Lewis was interested in the housing problem and carried out with success a housing scheme on his property in Glamorganshire. He married in 1905 a daughter of General Gregorie, C.B., and leaves a son and two daughters.

Second Lieutenant Charles Jefford Fowler.

Second Lieutenant CHARLES JEFFORD FOWLER, Royal Fusiliers, who died in France on 1st June from wounds received in action on 23rd May, was in his twenty-ninth year. He was the only son of Mr. Jefford Fowler, J.P., of 13, Bedford-row, and of Oatlands Chase, Weybridge. He was educated at Wellington College, where he took a senior scholarship, and at Trinity College, Oxford. He became an assistant master at Sandroyd School, Cobham, and was a student at the Inner Temple. His colonel writes: "He very gallantly led his company through an intense barrage (old warriors described it as the worst of the war) to almost within thirty yards of the German trench, where he was shot. After his captain was shot, which was early in the fight, he assumed command. His conduct was most gallant and his leadership perfection."

Second Lieutenant Ernest James Nicholls.

Second Lieutenant ERNEST JAMES NICHOLLS, Loyal North Lancashires, who was killed on the early morning of 22nd May last leading his platoon to retake a trench, was in his thirty-fifth year. He was the youngest son of Mr. Joseph Nicholls, solicitor, of 12, Old Jewry-chambers, and New Southgate. He was admitted a solicitor in 1903, and joined his father's firm (J. Nicholls & Son). He joined the London University O.T.C., and received his commission in March, 1915. A brother of his is Captain E. A. Nicholls, R.E. (Staff).

Lieutenant John Lockhart Miller.

Lieutenant JOHN LOCKHART MILLER, London Regiment (killed in action on 21st-22nd May), was the only son of Major-General James Miller, of Southwick-crescent, Hyde Park, W., and was in his thirty-third year. He was educated at Charterhouse and New College, Oxford, and was called to the Bar at Lincoln's Inn in 1912. Soon after the war broke out he enlisted in the Artists Rifles, from which corps he received his commission, being promoted lieutenant some months later. He was transferred to a Regular battalion in December, 1915. Lieutenant Miller was a great grandson of Sir William Miller, of Glenlee, whose son, Lieutenant-Colonel Miller, of the Guards, was killed at Quatre-Bras in June, 1815. He was also a great grand-nephew of Patrick Miller, of Dalswinton, inventor of steam navigation, and owner of the first steamboat launched in October, 1788.

Major Eustace W. R. Hadden.

Major EUSTACE WALTER RUSSELL HADDEN, Oxfordshire and Buckinghamshire L.I., was the younger son of the late Rev. R. H. Hadden, vicar of St. Mark's, North Audley-street, Chaplain-in-Ordinary to Queen Victoria and Hon. Chaplain to King Edward, and of Mrs. Hadden, of Hazel Hatch, Addlestone, Surrey. He was educated at Westminster and Christ Church, Oxford. While an undergraduate he was gazetted second lieutenant in November, 1908, to the Oxford and Bucks L.I. (T.F.), being promoted lieutenant in September, 1911, and captain in September, 1914. In April of this year he was promoted temporary major. In 1910 he was attached for a year to the 52nd L.I. at Shorncliffe. He was called to the Bar at the Inner Temple in 1912, and a year later went to Siam in a legal capacity under the Siamese Government. He returned to England a month before war was declared. In March, 1915, he went overseas, and almost immediately was so seriously injured in the face that his eyesight was despaired of. He recovered, however, in a wonderfully short time, and returned to duty without coming to England. He remained with his regiment till 7th June, when he was admitted to hospital and operated on the same day for appendicitis, dying on 10th June. He was the senior officer left of his battalion, and, though only twenty-five years old, commanded it for some time.

Second Lieutenant George Herbert Fox.

Second Lieutenant GEORGE HERBERT FOX, R.F.A., who was reported missing on 23rd April last, and is now reported to have been killed in action on that date, was the youngest son of the late William Scott Fox and of Mrs. Fox, of Sturry House, Oatlands, Weybridge. He was born in 1880, and educated at Charterhouse, Oriel College, Oxford, where he took honours in the final school of jurisprudence and in the examination for the degree of B.C.L., and Paris University, where he graduated as Licencié en Droit. He entered the Egyptian Civil Service (Ministry of Justice) in June, 1906, and was appointed to be a Judge of Native Courts at Tanta in January, 1913. For the past five years he had been appointed annually to be an examiner in the Khedivial Law School in Cairo. He obtained a commission in the Royal Field Artillery in July, 1915, and at the time of his death was attached to G.H.Q. Intelligence.

Legal News.

Lieut.-Colonel Edward N. Whitley, M.A., LL.M.

Lieutenant-Colonel Whitley's services to the Territorial Force, and as Commanding Officer of the 2nd West Riding Brigade, Royal Field Artillery, have been recognized by his being made a Companion of the Order of St. Michael and St. George.

He was born on the 3rd December, 1873, being the youngest son of the late Mr. Nathan Whitley, of Halifax. He was educated at Trinity College, Cambridge, where he graduated in 1895, being in the First Class of the Law Tripos, and subsequently receiving the degrees of M.A. and LL.M. He was articled with Messrs. Scatcherd, Hopkins & Middlebrooks, of Leeds, and passed a portion of his term of articles in the office of Messrs. Sharp, Parker & Co., London. He passed the Solicitors' Final Examination with honours, and was admitted as a solicitor in 1899. The following year he entered into partnership with Messrs. Humphreys & Hirst, solicitors, of Halifax and Bradford, the present firm being Messrs. Hirst, Whitley & Akeroyd. Lieutenant-Colonel Whitley's connection with what is now known as the Territorial Force dates back to 1896. From that time he worked unremittingly with a view to obtaining and promoting the highest possible degree of efficiency. When the war broke out he was in command of the 2nd West Riding Brigade of the Royal Field Artillery, which comprised batteries from Halifax and Bradford, and was recognised as one of the most efficient Territorial units in the North of England. It is known that he has held the view that one day the Territorial Force would be put to the test, and that probably this would be in a war with Germany.

Lieutenant-Colonel Whitley has been at the Western front since April, 1915, where his brigade was for several months engaged on one of the most difficult parts of the line, and successfully resisted every German attack. For his services in this connection Lieutenant-Colonel Whitley was mentioned in despatches. He is the youngest brother of the Right Honourable J. H. Whitley, M.P., the Chairman of Committees and Deputy-Speaker of the House of Commons.

Appointments.

Lieutenant CHARLES BERNARD JOHNSON, of the 4th Lancashire Regiment, has been appointed Clerk of Arraigns to the North-Eastern Circuit. Mr. Johnson was called at Gray's Inn in 1913, and joined the North-Eastern Circuit. He went to France with his regiment, and was so badly wounded in the second battle of Ypres that his recovery was despaired of.

The Justices for the Bala Petty Sessional Division of the county of Merioneth, on the 10th inst. appointed Mr. J. R. JORDAN, solicitor, to be their clerk, in place of the late Mr. J. R. Jones, who had held the office for twenty-six years. Mr. Jordan was admitted in 1899.

Mr. JOHN FRIEND ROWLATT has been elected a director of the Solicitors' Benevolent Association.

General.

The Lord Chief Justice, who will be the Judge on a part of the South-Eastern Circuit for the Summer Assizes, has agreed to dispense with the time-honoured State coach for his conveyance to and from the courts, and will use a motor-car instead.

It was officially reported on Tuesday evening that 212 more prisoners arrested in Dublin during the rebellion had been discharged.

Mr. Mead, at West London Police Court on Monday, sentenced a woman to fourteen days' imprisonment for drunkenness. She had previously been convicted, and he refused to allow the option of a fine. "When people in this district know that they may go to prison," he said, "there will be a wave of temperance. When I was here last year I caused a sort of reign of terror."

At Christie's, on the 7th inst., a relic of the English at Riga came up for sale. This was a silver Monteith, the property of the late Mr. Frederick Morrice, of Brampton Hall, Wangford, Suffolk. It bears the Riga hall-mark, and weighs 66½ oz.; on the foot is engraved "From the English Factory at Riga," and on the lip is engraved "The English Factory at Riga, to Captain Robert Chadwick, of the Royal Navy, anno 1718." It was purchased by Mr. Webster for £42.

At a court of directors of the Royal Exchange Assurance, held Wednesday, 14th June, Sir David Yule was appointed a director of the corporation.

The Property Mart.

Forthcoming Auction Sale.

June 27.—Messrs. DEBENHAM, TEWSON & CHINNOCKS, at the Mart, at 2: Freeholds Copyholds, and Leaseholds (see advertisement, page iii, this week).